

that it would be appropriate to provide customers with a basic disclosure of the nature of their CPNI rights at or near the signature line of a customer agreement, with both a specific, direct reference to a more complete disclosure elsewhere in the document and an opportunity for the customer to choose whether or not to consent to the use of that customer's CPNI.^{24/} The Commission should clarify that such an approach is permitted under the rules adopted in the *Order*.

VI. The Commission Should Clarify the Extent to Which CMRS Providers Are Liable for the Actions of Their Agents.

CMRS providers make extensive use of independent agents to sell their services. Agents not only serve customers who come to them as a result of the CMRS provider's marketing, but also engage in their own marketing. Consequently, it is critical for the Commission to clarify how the new CPNI rules affect information obtained by agents of CMRS providers. As described below, Vanguard submits that information collected and held by such agents should not be treated as CPNI or subjected to the Commission's CPNI rules.

Sales agents are not CMRS providers; in fact, they generally are not even Commission licensees. Moreover, because agents do not provide telecommunications service, any customer

^{24/} The option to grant or withhold consent could take the form of a check box. It also would be appropriate for the Commission to require the full disclosure to be made in a type face no less prominent than used for other parts of the agreement or to take other steps to ensure that customers can see and read the full disclosure if they so choose.

information they obtain is not CPNI as to the agent.^{25/} At the same time, CMRS providers have little practical control over how their agents use customer information after it is obtained and cannot even prevent agents from using customer information to sell the services of competing providers.^{26/}

Given these facts, it is evident that the Commission cannot attempt to extend its CPNI rules to the agents of CMRS providers. There is neither a statutory basis for such a conclusion nor any practical way to enforce the rules in that context. Equally important, the Commission should not hold CMRS providers responsible for the actions of their agents. Because the agents will not face any regulatory consequences for their use of customer information, it will be difficult or impossible for CMRS providers to enforce any CPNI requirements on their agents.^{27/} Consequently, the Commission should clarify that the use of customer information obtained and held by sales agents is not subject to the CPNI rules.

^{25/} Of course, to the extent that the information is passed to the underlying CMRS provider and otherwise meets the definition of CPNI, then the CMRS provider would be subject to the CMRS rules.

^{26/} This is a significant issue because many agents sell the services of two or more broadband CMRS providers and one or more paging providers.

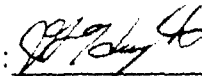
^{27/} Even if CMRS providers had any practical ability to impose limitations on the use of customer information, doing so would require renegotiation of agents' contracts, many of which do not expire in the near future.

VII. Conclusion

For all these reasons, the Commission should reconsider and clarify the rules adopted in this proceeding in accordance with this petition.

Respectfully submitted,

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May 26, 1998

CERTIFICATE OF SERVICE

I, Vicki Lynne Lyttle, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 26th day of May, 1998, a copy of the foregoing "Petition for Reconsideration" was sent by first-class mail, postage prepaid, to the following:

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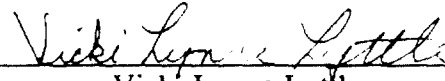
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